GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri Kunchala Vinodh Kumar, S/o Late K. Raja Gopal, Kacherimetta, Kavali (M), SPSR Nellore District against the Proceedings, dt. dt.03.10.2010 of the Collector & District Magistrate, SPSR Nellore District in cancelling the ST 'Yerukula' Caste Certificate under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Appeal Petition dismissed - Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.17. **Dated: 01.04.2022**
Read the following:-

1. Proceedings of the Collector & District Magistrate, SPSR Nellore District in D.Dis (C5)1361/2010, dt.03.10.2010.
2. Appeal Petition filed by Sri. Kunchala Vinodh Kumar, S/o Late K. Raja Gopal, Kacherimetta, Kavali (M), SPS, Nellore District, dt.02.11.2010.
3. Govt. Memo No.9959/CV.2/2010, dated. 23.11.2010.
4. From Collector & District Magistrate, SPSR Nellore District Lr.No.Rc.C5(M) 2215/10, dt.18.12.2010.
5. Order of the Hon'ble High Court of Andhra Pradesh, Hyderabad in WP No.15962/2010, dated 30.12.2011 filed by the appellant.
6. Govt. Memo No.9959/CV2/2010, dated 01.05.2012, 27.12.2018, 09.01.2019, 23.01.2019, 09.09.2021 & 02.03.2022.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, SPSR Nellore District has issued orders cancelling the ST 'Yerukula' Community Certificate of Sri Kunchala Vinodh Kumar, S/o Late K. Raja Gopal, Kacherimetta, Kavali (M), SPSR Nellore District duly following due procedure laid down in A.P. (SC, ST & BC) Regulation of issue of Community Certificate Rules, 1997.

2. Aggrieved by above, Sri Kunchala Vinodh Kumar, Kacherimetta, Kavali (M), SPSR Nellore District vide reference 2nd read above has filed an Appeal Petition before the Government through his Counsel against the above said Proceedings, dt.03.10.2010 of the Collector & District Magistrate, SPSR Nellore District duly submitting grounds in support of his claim of ST 'Yerukula' Community Certificate and prayed to set aside the proceedings of the Collector & District Magistrate, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the same and stay granted as prayed for by the appellant and called for the para-wise remarks on the grounds filed by the Appellant along with connected records from the Collector & District Magistrate, SPSR Nellore vide Memo 3rd read above.

3. In the reference 4th read above, the Collector & District Magistrate, SPSR Nellore has furnished para-wise remarks along with connected records on the Appeal Petition filed by Sri Kunchala Vinodh Kumar.

4. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on various dates duly informing the same to the Appellant and the Counsel for the Appellant in the reference 5th read above. The appellant and his Counsel have not attended the final hearing i.e., on 12.03.2022. On perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant and proceedings, dt.03.10.2010 of the Collector & District Magistrate, SPSR Nellore District and the para-wise remarks submitted by him, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support of his claim of ST 'Yerukula' community are as follows:

   1. The Collector & District Magistrate, Nellore District is gravely erred in passing the Notification in D Dis *(C5)* 1361/2010, dt.03.10.2010 by canceling his caste certificate against to the judgment and decision of the Hon'ble High Court Andhra Pradesh, wherein the Hon'ble Court ordered that "Kathera" is not a caste and it refer to the profession and they practice that is cutting and pick packets. But they belongs to "Yerukala" Schedule Tribe.

[Contd..on P.2]

2. The Collector & District Magistrate, Nellore District erred in considering the enquiry report of R.D.O, Kavali even though it is impugned and ordered against the order of Hon'ble High Court of A.P. even though it ordered that the R.D.O while conducting enquiry on caste status claim should conduct open enquiry at the place of residence of the candidate and further at the place where their fore fathers resided. But in this case, the R.D.O, Kavali not complied and hence the report of R.D.O, Kavali is not according to law.
3. Further, the enquiry report of D.T.W.O, Nellore is also not according to law and denotes that the official is not aware of the professions of Yerukalas and not aware of the sur-names and clans of Yerukalas. His enquiry report is not according to extant instructions and basing on it the decision of District Collector is not according to law.
4. The Collector & District Magistrate, Nellore District ought to have seen the reports of R.D.O and D.T.W.O, wherein their reports conforming that the grand father and the father of appellant are belongs to Yerukala and the appellant record since primary education ST Yerukala, he might not passed this order.
5. Because of the unlawful order of the District Collector, the appellant lost the appointment of Government Doctor, which is against to the principles of natural justice.
6. The other grounds which were not raised will be argued at the time of hearing.

II. The Collector & District Magistrate, SPSR Nellore District has furnished the following remarks on the above grounds as follows:-

1. The grand father of the appellant, Sri Kunchala Veeraiah resided in Kacherimitta of Kavali Settlement area and he belongs to Kathera community. Smt. Kunchala Narasamma is the mother of the individual and the surname of her father is Gunji and they have resided in Kapparallathippa village of Bogole Mandal. Sri Kunchala Rajagopal, father of the individual joined in Government Service as Police Constable on 1.10.1954 and his caste was enrolled in the Service Register as Kathera (ST), though Kathera is not included in the list of Scheduled Tribes. The appellant was admitted in the Elementary School on 17.7.1971 vide Admn.No.4002 of Municipal Elementary School (Ramaiah Badi), Mulapeta, Nellore and his caste has been entered as Yerukala (ST). Hence, it is proved that intentionally, the caste of the individual has been entered as Yerukala (ST) instead of Kathera community. According to Sec.6 of the Act 16/1993, the burden of proof lies on the individual to prove his caste status before the authorities. But, he failed to do so. Thus, the contention of the appellant that his grand father, father and himself belong to Yerukala (ST) is false
2. The Revenue Divisional Officer, Kavalj and District Tribal Welfare Officer, Nellore have made personal and detailed enquiry into the caste status of the appellant. The RDO, Kavali and DTWO, Nellore have categorically reported that the appellant has got relationship with the families having surnames of Gunji and Kunchala only and that the people having these surnames belong to Kathera caste but not Yerukala Tribe. The people having surnames of Kunchala and Gunji were traditionally pick pocketers and hence, they were called as Katheras and that Vadderas have mingled with Katheras. With a malafide intention to avail the benefits of STs, the candidate's parents maintained records as Yerukala during his entire educational period. After careful examination of the report of the Director of Tribal Welfare, AP, Hyderabad and reports furnished by the Revenue Divisional Officer, Kavali, District Tribal Welfare Officer, Nellore, copies of documents submitted by the individual, enquiry conducted by the DLSC, the Yerukala (ST) Caste Certificate issued by the Tahsildar, Kavali in Certificate No. 2/09, dated 2.2.2009 in favour of Sri Kunchala Vinod Kumar, S/o. Rajagopal has been cancelled in accordance with Sec. 5(1) of the AP (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 16 of 1993, read with Rule 9 (7) of AP (SC, ST & BC) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997, communicated in G.O.Ms.No.58, Social Welfare Department, dated 12.5.1997.
3. In view of the above facts, the appeal petition deserves no consideration and hence, the appeal petition may kindly be dismissed, as the petitioner does not belong to Yerukala- ST Community.

III. Finally, the Appellate Authority has observed /opined that;

1. During the course of hearing, that the appellant filed to appear and to advance arguments despite service of notice and case is long pending case and it is treated as heard and ordered for orders on merits.

[Contd..on P.3]

2. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record, it is noticed that the contention of petitioner is that his grandfather and his father belongs to ST community and on the verification of service register of his father it can be concluded that he belongs to ST community and on perusal except the said contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence that he belongs to ST Community and moreover that the lower authority carefully consider all the documents produced by the appellant and came to a conclusion that the appellant does not belongs to ST community.
3. That as per the act that the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. As seen from the record, the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence, it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the lower authority.
4. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference and accordingly the Proceeding is hereby upheld and the appeal petition is hereby dismissed.

5. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), decide that the Proceedings of the Collector & District Magistrate, SPSR Nellore District in D.Dis (C5)1361/2010, dated 03.10.2010 does not deserve any interference, hence, the same are hereby upheld duly dismissing the appeal petition filed by Sri Kunchala Vinodh Kumar, S/o Late K. Raja Gopal and the caste certificate issued by the then Tahsildar, Kavali is deemed to be cancelled.

6. The Collector & District Magistrate, SPSR Nellore is directed to take necessary consequential action in the matter.

7. The records (D.Dis (C5) 1361/2010, containing pages NF: 1-10, CF: 1-396) received from the Collector & District Magistrate, SPSR Nellore are returned herewith in original to the Collector & District Magistrate, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, SPSR Nellore.(we)
(with Original Records) (BY RPAD)

Sri Kunchala Vinodh Kumar, S/o Late K. Raja Gopal
Door.No.10-49-13, Kacherimetta,
Kavali, SPS Nellore District.

Sri S. Peddaiah, Sri V.Raja Manohar, Sri S. Sarada Rani, Advocates,
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Ph:9440504316.

Copy to :
The Tahsildar, Kavali, SPSR Nellore District.

The PS to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).
Sf/Sc (E 661470).

// FORWARDED:: BY ORDER //

SECTION OFFICER